

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH HILL,

Plaintiff,

v.

BARTOS, et al.,

Defendants.

No. 2:20-cv-00221 TLN CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. Plaintiff's amended complaint is before the court for screening under 28 U.S.C. § 1915A(a). The court has conducted the required screening and finds that plaintiff may proceed on the following claims:

1. A claim arising under the Equal Protection Clause of the Fourteenth Amendment against defendant Bartos related to the confiscation of plaintiff's personal property.

2. A claim arising under the First Amendment against defendant Bartos for retaliation against plaintiff for protected conduct.

3. A claim arising under the Eighth Amendment against defendant Bartos for use of excessive force as described in paragraph 23 of plaintiff's amended complaint.

4. A claim arising under the Eighth Amendment against defendant Murphy for use of excessive force as described in paragraph 43 of plaintiff's amended complaint.

1 5. A claim arising under the Eighth Amendment against defendants Cottrell, Murphy,
2 Hooven, Eckernaught and Parrish for use of excessive force as described in paragraph 45 of
3 plaintiff's amended complaint.

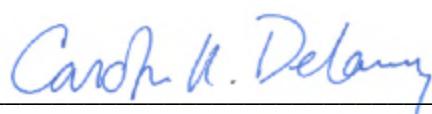
4 6. A claim arising under the First Amendment against defendant Gustafason for
5 retaliation against plaintiff for protected conduct as described in paragraphs 67 and 68 of
6 plaintiff's amended complaint.

7 At this point, plaintiff has two options: 1) he may proceed on claims described above; or
8 2) make an attempt to cure the deficiencies in his amended complaint with respect to the other
9 defendants and claims in a second amended complaint. If plaintiff chooses to amend, he should
10 refer to the court's March 20, 2020 order for guidance.

11 Finally, plaintiff is reminded if he elects to amend that the court cannot refer to a prior
12 pleading in order to make the second amended complaint complete. Local Rule 220 requires that
13 an amended complaint be complete in itself without reference to any prior pleading. This is
14 because, as a general rule, any amended complaint supersedes all other pleadings. See Loux v.
15 Rhay, 375 F.2d 55, 57 (9th Cir. 1967).

16 In accordance with the above, IT IS HEREBY ORDERED that plaintiff is granted 21 days
17 within which to complete and return the attached form notifying the court whether he wants to
18 proceed on the claims described in this order or whether he wishes to file a second amended
19 complaint in an attempt to cure the deficiencies in his amended complaint. If plaintiff does not
20 return the form, this action will proceed on the claims described above.

21 Dated: November 23, 2020


CAROLYN K. DELANEY

UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH HILL, Plaintiff,
v.
BARTOS, et al., Defendants

No. 2:19-cv-2152 TLN CKD P

PLAINTIFF'S NOTICE OF
HOW TO PROCEED

Check one:

Plaintiff wants to proceed immediately on the following claims:

1. A claim arising under the Equal Protection Clause of the Fourteenth Amendment against defendant Bartos related to the confiscation of plaintiff's personal property.

2. A claim arising under the First Amendment against defendant Bartos for retaliation against plaintiff for protected conduct.

3. A claim arising under the Eighth Amendment against defendant Bartos for use of excessive force as described in paragraph 23 of plaintiff's amended complaint.

4. A claim arising under the Eighth Amendment against defendant Murphy for use of excessive force as described in paragraph 43 of plaintiff's amended complaint.

5. A claim arising under the Eighth Amendment against defendants Cottrell, Murphy, Hooven, Eckernaught and Parrish for use of excessive force as described in paragraph 45 of plaintiff's amended complaint.

6. A claim arising under the First Amendment against defendant Gustafason for retaliation against plaintiff for protected conduct as described in paragraphs 67 and 68 of plaintiff's amended complaint.

OR

Plaintiff wants time to file a second amended complaint.

DATED:

Plaintiff